

**Senate Committee on Environment and Public Works**  
**Hearing Entitled, “Hearing on the Nominations of Amanda Howe to be Assistant Administrator for Mission Support of the Environmental Protection Agency, David Uhlmann to be Assistant Administrator for Enforcement and Compliance Assurance of the Environmental Protection Agency, and Carlton Waterhouse to be Assistant Administrator of Land and Emergency Management of the Environmental Protection Agency.”**  
**September 15, 2021**  
**Questions for the Record for Carlton Waterhouse**

**Ranking Member Capito:**

1. President Biden’s key advisory council for environmental justice, the White House Environmental Justice Advisory Council (WHEJAC), advised President Biden that any new federal funding or support for natural gas, nuclear energy power development, technologies like carbon capture utilization and storage (CCUS), or highway expansion should not be considered as conferring benefits to environmental justice communities.<sup>1</sup> During your nomination hearing, you expressed support for CCUS, which is in direct opposition to the WHEJAC recommendations. What is your view of these contrasting WHEJAC recommendations and what role will they play, if any, in environmental justice-related decisions at EPA moving forward?

**RESPONSE:** As you reference, in response to charge questions from the White House Council on Environmental Quality (CEQ), the White House Environmental Justice Advisory Council (WHEJAC) issued recommendations on the administration and implementation of Justice40 in May 2021. After receiving those recommendations, the White House issued [interim implementation guidance for the President’s Justice40 Initiative](#). EPA is committed to implementing this guidance in accordance with our statutory authorities to achieve the 40-percent goals.

2. In a 2014 speech, you discussed international environmental justice and stated:

*“ . . . countries that are made up of people in the developing world, primarily China and India, have said to the Western nations that are developed already, the reason we have too much carbon in the environment is because you all have polluted the environment for the last 100+ years. . . . And there is so much carbon in the environment that the climate has already started to change. That is a result of the industrialization of the United States, Canada, England[,] France[,] Spain and Portugal, etc. So when they came together to make an agreement about climate change, the developing world countries said ‘Wait a minute, you fill up the bathtub all the way to the brim. And as soon as we decided we need to get some water too, you said we’re causing a problem.’ . . . So those countries in the developing world said ‘it is not just and it is not fair for you to hold us responsible for the problem.’ ”<sup>2</sup>*

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<sup>1</sup> <https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf>

<sup>2</sup> <https://www.youtube.com/watch?v=4JqOjXO-m-A>

Do you acknowledge that China is the largest greenhouse gas emitter and that emissions reductions in the United States could be more than outweighed by projected increased emissions from China and India?

**RESPONSE:** As President Biden has said, “We are in a climate crisis.” Climate change is an urgent threat that demands action, both domestically and internationally. It is essential that China and the United States continue to reduce greenhouse gas emissions. China’s efforts to reduce emissions this decade need to be consistent with its position as a leading economy and the world’s largest greenhouse gas emitter.

3. Do you believe that the US must reduce its greenhouse gas emissions more than China and India?

**RESPONSE:** The Paris Agreement calls for action by all countries to reduce greenhouse gas emissions. Countries across the globe must step up to address the climate crisis. Given that more than 85 percent of emissions come from beyond U.S. borders, domestic action must go hand in hand with international leadership. All countries—and particularly the major economies—must do more to bend the curve on global emissions to keep a 1.5-degree Celsius limit on global average temperature rise within reach.

4. At the American Climate Leadership Summit in 2020, you spoke in support of “climate reparations” at the international level. Specifically, you stated, “*Government has to take responsibility for its actions. Climate reparations is an important part of that and essential to bring about equity...climate reparations expect that countries pay to help other countries prepare for and deal with the problems of climate. I think climate reparations are essential and an important part of having an equitable climate vision.*”<sup>3</sup>

Under your idea of “climate reparations,” would the US make payments to countries like China and India?

**RESPONSE:** My speech reflected my personal opinion about addressing climate change. I support President Biden’s whole-of-government approach to addressing climate change, and if confirmed I look forward to supporting the Administration’s climate goals to the extent they are relevant to my work in the Office of Land and Emergency Management.

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<sup>3</sup> [https://www.youtube.com/watch?v=aliHfsObiQU&list=PLfYbm8qPg1ebAUAN\\_bnA4koq6UmeFmoDs&index=19](https://www.youtube.com/watch?v=aliHfsObiQU&list=PLfYbm8qPg1ebAUAN_bnA4koq6UmeFmoDs&index=19)

5. Do you believe the Administration should make “climate reparations” payments to countries that *continue to increase* their emissions?

**RESPONSE:** My speech reflected my personal opinion about addressing climate change. I support President Biden’s whole-of-government approach to addressing climate change, and if confirmed I look forward to supporting the Administration’s climate goals to the extent they are relevant to my work in the Office of Land and Emergency Management.

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6. What do you believe the role for EPA in administering “climate reparations” would be?

**RESPONSE:** My speech reflected my personal opinion about addressing climate change. I support President Biden’s whole-of-government approach to addressing climate change, and if confirmed I look forward to supporting the Administration’s climate goals to the extent they are relevant to my work in the Office of Land and Emergency Management.

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7. During the hearing, in response to your prior use of #ResistCapitalism on your public-facing Twitter, you stated that you were “not very active on Twitter” and you were “not sure what it was referencing.” You have used hashtag in 13 Tweets, which are included below for context. Can you please explain what your use of this hashtag was meant to signify for each of the 13 tweets?



**Carlton Waterhouse** @CarltonWJD · Apr 27, 2015

...

[#ResistCapitalism](#) [#inequality](#)

America's wealth has been systematically redirected to the top 1% since the 1980s. [youtube.com/watch?v=6niWzo...](https://www.youtube.com/watch?v=6niWzo...)



**Carlton Waterhouse** @CarltonWJD · Apr 25, 2015

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The ugly truth about energy. The ends don't justify the means. [#inequality](#) [#environmentalawareness](#) [#ResistCapitalism](#) [twitter.com/socialjusticem...](https://twitter.com/socialjusticem...)

This Tweet is unavailable.



**Carlton Waterhouse** @CarltonWJD · May 17, 2015

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Inexpensive products have a high cost. Workers pay with their happiness, health & their lives. [#ResistCapitalism](#)



**Leisy Abrego** @AbregoLeisy · May 17, 2015

72 women died in a factory fire in the Philippines this week. Their lives as sweatshop workers were always in danger. [womeninandbeyond.org/?p=18682](http://womeninandbeyond.org/?p=18682)



**Carlton Waterhouse** @CarltonWJD · May 19, 2015

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Your food choices are not just important for your health & animal welfare. [#ResistCapitalism](#) [#injustice](#)



**Mother Jones** @MotherJones · May 19, 2015

John Oliver explains how the chicken industry screws over farmers and keeps them in poverty [bit.ly/1FtGCD3](http://bit.ly/1FtGCD3)



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**Carlton Waterhouse** @CarltonWJD · Jun 1, 2015

It's not enough 2 fight [#racism](#) & [#ResistCapitalism](#) or say [#AllLivesMatter](#). [#Inequality](#) is caused by Social Dominance. Replace it w/justice!
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**Carlton Waterhouse** @CarltonWJD · Apr 27, 2015

1947-1977 90% of income gains went to bottom 90% & 10% of gains went to top 10%. 1978-2008 top 1% took 90% of the gains. [#ResistCapitalism](#)

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**Carlton Waterhouse** @CarltonWJD · Apr 28, 2015

Why do the bottom 80% or 240 million Americans only have 7% of the country's wealth? Hint, its no accident. [#ResistCapitalism](#) [#inequality](#)

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**Carlton Waterhouse** @CarltonWJD · Apr 27, 2015

400 wealthiest Americans control more wealth than half the population (150 million people). Its time to [#ResistCapitalism](#) and [#inequality](#).
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**Moke** @Moke453 · May 18, 2015

Replying to @CarltonWJD  
[@CarltonWJD](#) Your tweet was hashtagged with "resist capitalism," but now the name of the system is irrelevant?

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**Carlton Waterhouse** @CarltonWJD · May 18, 2015

@Moke453 Many people worship capitalism like it's divine & ignore the harm it causes. It's just a tool. Let's improve it. [#ResistCapitalism](#)

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**Carlton Waterhouse** @CarltonWJD · May 24, 2015

@ArthurRothbard not a god. More like a priest protecting the faith from heretic nonbelievers challenging church orthodoxy.[#ResistCapitalism](#)

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**Carlton Waterhouse** @CarltonWJD · May 19, 2015

@newsone we really need an [#inequality](#) czar to study the vast wealth inequality from top to bottom and how to change it. [#ResistCapitalism](#)



**Carlton Waterhouse** @CarltonWJD · May 17, 2015

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What does slavery have to do with capitalism? Plenty! A truly "free market" profits from slavery [#ResistCapitalism](#).

[yesmagazine.org/issues/make-it...](http://yesmagazine.org/issues/make-it...)

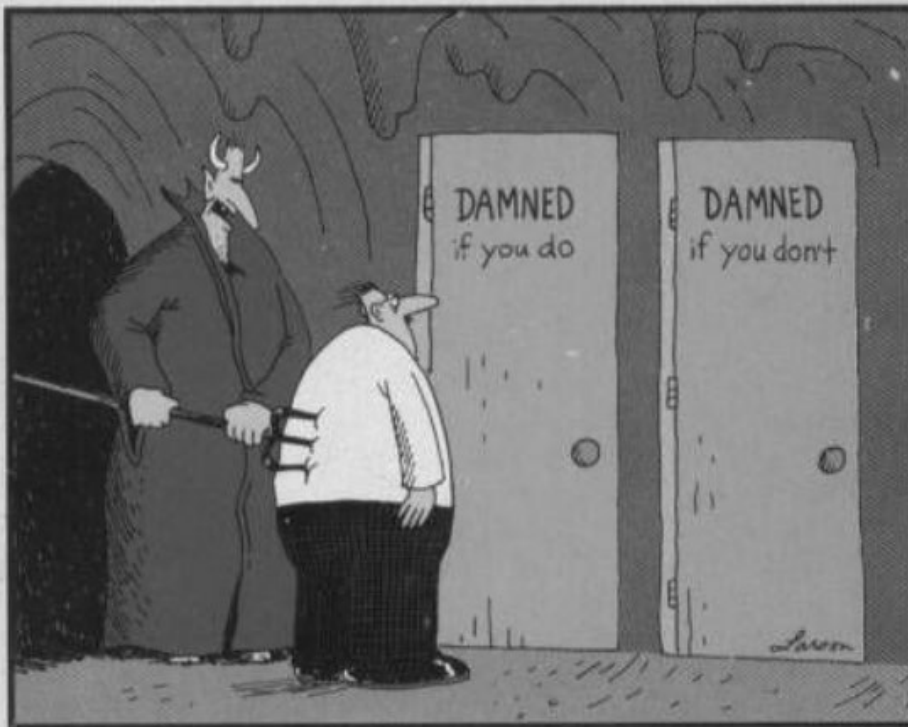


**Carlton Waterhouse**  
@CarltonWJD

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Replying to [@thatbillokeefe](#)

[@DefendWallSt](#) we have heard that before. If the conditions are bad just work somewhere else.  
[#ResistCapitalism](#)



"C'mon, c'mon — it's either one or the other."

12:59 AM · May 18, 2015 · Twitter for Android

1 Quote Tweet



**RESPONSE:** Over the years I have used social media, including Twitter, though I have not been much of a social media user in recent years. These Tweets are over six years old. The Tweets you reference reflected an effort on my part, as an academic, to engage with others on current events and present-day issues on which I was developing my thinking and looking to learn from others. I have focused my academic research on social ethics, learning how to create laws and policies that treat people rightly and promote justice for all. I do not recall the exact context of these Tweets from April, May, and June of 2015, but my remarks went to the need for reasonable and responsible regulation under our economic system in order to create prosperity and equality of opportunity for all people.



**RESPONSE:** Over the years I have used social media, including Twitter, though I have not been much of a social media user in recent years. These Tweets are over six years old. The Tweets you reference reflected an effort on my part, as an academic, to engage with others on current events and present-day issues on which I was developing my thinking and looking to learn from others. I have focused my academic research on social ethics, learning how to create laws and policies that treat people rightly and promote justice for all. While I do not recall the specific context of these Tweets from April, May, and June of 2015, the term “Free market” as used in those tweets referred to an economic paradigm where regulations and legal interventions by government do not exist in order to allow market interactions free of government restraint. My Tweets reflect my strong belief that the United States of America’s environmental, civil rights, and other laws are critical to the continued protection of people and communities.

9. Do you believe the current environmental policies in countries that have rejected the tenets of free market capitalism, such as China and Russia, are effective ways of protecting the environment?

**RESPONSE: EPA’s dutiful execution of environmental laws and regulations has made it a world leader in environmental protection.**

10. In a 2020 presentation to the Sunrise Movement in DC, you referenced permit streamlining and stated that, “[The Trump Administration said] they are simplifying the rules, but they were really just making easier for industry...” and that the streamlining move was “an easier and faster way to get [industry] projects through.”<sup>4</sup> According to a 2020 Council for Environmental Quality (CEQ) report, the average time to complete a NEPA review for the Federal Highway Administration was seven years.<sup>5</sup> Do you believe long average wait times to complete environmental impact statements slow the delivery of infrastructure projects that are beneficial to environmental justice communities or projects – like clean energy facilities and electric transmission infrastructure – that the Biden Administration has prioritized as part of its Build Back Better domestic policy agenda?

**RESPONSE: NEPA provides a strong foundation for rebuilding infrastructure better, smarter, and more equitably. Doing environmental reviews the right way, by listening to communities, avoiding foreseeable problems, designing thoughtfully, and relying on the science, is the way to build back better infrastructure. I understand that the White House Council on Environmental Quality is reviewing the NEPA regulations. If I am confirmed, I will follow all NEPA regulations and guidance, as relevant to fulfill my duties in the Office of Land and Emergency Management.**

11. President Biden’s fiscal year (FY) 2022 budget requests more than 1,000 new FTE staff at EPA.<sup>6</sup> Why do the accompanying materials to the budget request appear to not include even one new FTE for the Office of Land and Emergency Management (OLEM)?<sup>7</sup>

**RESPONSE: The President’s FY 2022 budget request would invest more than \$1.5 billion in EPA’s Superfund program. In the Superfund long-term cleanup programs specifically, the budget provides \$882 million, a \$293 million increase from FY 2021, to clean up some of the nation’s most contaminated land and reduce emissions of toxic substances and greenhouse gases from existing and abandoned infrastructure. In addition, EPA requests more than \$203 million to prepare and respond to environmental emergencies and natural disasters. The FY 2022 budget also provides \$201 million for EPA’s Brownfields program. This includes \$131 million for Brownfields Projects, an increase of \$40 million from FY 2021, of**

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<sup>4</sup> <https://www.facebook.com/SunriseMvmtDC/videos/5427336567292553>

<sup>5</sup> Council on Environmental Quality, Average NOI to ROD, Environmental Impact Statement Timelines (2010-2018) 10 (June 12, 2020), [https://ceq.doe.gov/docs/nepa-practice/CEQ\\_EIS\\_Timeline\\_Report\\_2020-6-12.pdf](https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2020-6-12.pdf).

<sup>6</sup> <https://www.epa.gov/sites/default/files/2021-05/documents/fy-2022-epa-bib.pdf>, Pg. 25

<sup>7</sup> <https://www.epa.gov/sites/default/files/2021-05/documents/fy-2022-congressional-justification-all-tabs.pdf>, Pg. 838



which \$15 million is designated for communities affected by the retirement of coal-fired power plants.

Of the total funding requested for Superfund, \$1.108 billion and 1,261 FTE would support Superfund cleanup programs, a \$299.4 million increase over last year. New FTE were not included as part of the budget request in order to focus on providing resources to clean up sites and to communities via grants. If the Agency receives the requested FY 2022 resources, and as part of EPA's operating plan development, EPA will assess whether additional FTE might be needed.

12. Does this indicate a lack of Administration emphasis on OLEM programs or a diminution of its mission?

**RESPONSE:** As noted above, the President's FY 2022 budget request would invest more than \$1.5 billion in EPA's Superfund program and \$201 million in EPA's Brownfields program. Of the total funding requested for Superfund, \$1.108 billion and 1,261 FTE would support Superfund cleanup programs, a \$299.4 million increase over last year. In the 40 years since Congress signed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) into law in 1980, we have made significant progress on cleaning up and restoring contaminated land on these Superfund sites, but the work is far from over. Communities located within one mile of Superfund sites are disproportionately communities of color and low-income. The Infrastructure Investment and Jobs Act, as passed by the Senate, includes a \$5 billion investment in the remediation and redevelopment of brownfield and Superfund sites, as well as related economic and workforce-development programs. Cleaning up contaminated sites and returning them to productive use can be an engine for economic development across the country while reducing communities' exposure to dangerous pollutants.

13. The President's FY 22 budget request includes an increase of 41.7 FTE for Superfund, but as I previously noted, the budget request does not appear to include any new FTE in OLEM. Specifically, where would these new Superfund FTE work?

**RESPONSE:** Of the total funding requested for Superfund, \$1.108 billion and 1,261 FTE would support Superfund cleanup programs, a \$299.4 million increase over last year. The FY 2022 President's Budget includes an increase of 35.2 FTE in the Superfund Appropriation to support Superfund cleanup programs. This support for Superfund programs includes 30.0 FTE for the Acquisition Management program to strengthen EPA's capacity to process new, increased, and existing award contract actions in a timely manner and to support the Agency's efforts to "Buy American"; 2.4 FTE for the Radiation Protection program to increase program capacity and field support to manage and mitigate radioactive releases and exposures along with data evaluation and assessment, document review, and field support through ongoing fixed and mobile analytical capabilities; 2.0 FTE for the Environmental Justice program to support the development of a cross-agency effort to advance and coordinate environmental justice activities; and 0.8 FTE in the

**Human Resources Management program to support the Foundations for Evidence-Based Policymaking Act of 2018 to be used for the Agency’s Learning Agenda’s evidence gathering.**

14. Does OLEM plan to make any changes to the competition process for Brownfields grants? If so, please detail these changes and the timeline you anticipate for these changes being made.

**RESPONSE: EPA actively looks for opportunities to extend and expand upon the vital Brownfields grants program to return potentially contaminated or contaminated sites to productive reuse. For the Fiscal Year 2022 Brownfields Grant Competition, EPA made several changes to the Brownfields Assessment Grant Program, Revolving Loan Fund Grant Program, and the Brownfields Job Training Grant Program. EPA notes these policy changes on our website: <https://www.epa.gov/brownfields/brownfields-program-policy-changes>.**

15. When speaking to the National Environmental Justice Advisory Council (NEJAC) in August, you stated that EPA will consider cumulative risks of combined exposures to multiple pollutants over time.<sup>8</sup> Can you elaborate on that statement and cite what statutory authority EPA would be utilizing to implement this change?

**RESPONSE: EPA has broad authority under CERCLA to address releases or threatened releases of hazardous substances to ensure protection of human health and the environment. EPA already considers risk factors such as cumulative risk to sensitive subpopulations when addressing releases or threatened releases of hazardous substances from a CERCLA site. EPA will use the best available science to protect all people from exposures in accordance with CERCLA.**

16. At a July 14<sup>th</sup> meeting with the Environmental Council of the States (ECOS), Administrator Regan said the Agency hoped to develop a “systematic, holistic approach” to addressing cumulative impacts and that the Agency was evaluating its authority to address cumulative impacts of pollution, including having conversations with Congress about potential legislative changes that are needed to provide authority to evaluate cumulative impacts. What potential needed legislative changes have you identified to address these “cumulative impacts”?

**RESPONSE: EPA already accounts for various risk calculations, including cumulative risk, in the Superfund process by considering unique exposures, vulnerabilities, and disproportionate impacts experienced by low-income, minority, and/or indigenous communities. If confirmed, I plan to evaluate our current authorities and potential legislative options we may pursue to further address cumulative impacts.**

17. What does it mean to assess cumulative risks of combined exposures to multiple pollutants over time in conjunction with cleaning up a Superfund site?

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<sup>8</sup> <https://insideepa.com/daily-news/epa-officials-tout-range-ej-actions-response-nejac-concerns>

**RESPONSE:** EPA's Superfund response actions address releases or threatened releases of hazardous substances to protect human health and the environment. The Agency's scientific understanding continues to evolve. For example, Superfund risk assessments have moved beyond single chemical assessments and now evaluate the aggregate effects of multiple, concurrent chemical exposures in all media at our sites for current and future potential land use scenarios. This helps EPA consider ways to protect populations that are subject to multiple sources of contamination both from CERCLA releases as well as off-site contamination.

18. Does EPA have data demonstrating that completed Superfund cleanups are not adequately addressing risks to human health or the environment? If not, what scientific information is EPA relying on as the basis for expanding the scope of risk assessments?

**RESPONSE:** EPA relies on the best available scientific data when selecting a cleanup for a site. As part of the Superfund process, EPA reevaluates and modifies, as needed, our understanding of risks posed by exposure to CERCLA releases and associated cleanup approaches to ensure that protectiveness is achieved for exposed populations. The Five-Year Review process provides an opportunity for EPA to consider new information and ensure that the remedy is protective on a site-specific basis and will remain protective over time.

19. Do you think EPA should change the scope of exposure assessments conducted for Superfund risk assessments? If so, which exposure pathways do you think are currently omitted from Superfund risk assessments that should be included?

**RESPONSE:** Recognizing that many communities are burdened by multiple sources of pollution, and that some communities are more vulnerable to the effects of pollution than others, CERCLA provides broad authority to consider how cumulative risks may affect sensitive subpopulations. If confirmed, I will work to ensure that all Superfund cleanups continue to consider the best available scientific data when making site decisions that impact communities.

20. Do you think EPA should consider human exposures from offsite sources in Superfund risk assessments? If so, what radius should EPA use when considering offsite exposures?

**RESPONSE:** In determining risks under CERCLA, and in establishing protective cleanup levels, cumulative risk should be considered to the extent practicable given our understanding of the site-specific factors, such as sensitive subpopulations, and the best available scientific data.

21. In a September 1<sup>st</sup> meeting with the National Academy of Sciences on this topic, an official in EPA's Office of Research and Development stated, "*The question is, how do we go from this traditional chemical risk assessment paradigm to this broader paradigm that incorporates non-chemical factors that play a role in disparate exposures and health outcomes?*" In your view, which non-chemical factors are not currently incorporated into Superfund risk assessments but should be?

**RESPONSE:** As noted in the response to Question 19, EPA already has broad authority under CERCLA to consider various risk factors when setting cleanup levels to ensure protectiveness from risks resulting from a release. Under the National Contingency Plan, factors related to sensitive populations may be considered as well as cumulative impact. Depending on site-specific factors, subpopulations may experience a greater risk from specific contaminants either singly or as a result of multiple stressors. In such situations, cleanup levels may be set at more stringent levels.

Major data gaps still exist, however, with respect to toxicity and modes of action of large numbers of individual chemicals. Advances that would improve the scientific basis for risk assessments of mixtures include improving methods for identifying critical (e.g., rate-limiting) alterations in pathways, predicting the results of disruption of multiple pathways, and quantifying those interactions to predict chemical combinations that could harm human health. Additional specific issues and tools would improve the understanding of the relative contribution of multichemical exposures.

22. During the previous Administration, EPA created an Administrator's Emphasis List for Superfund, which ensured issues preventing progress of cleanups were quickly elevated to the Administrator-level and resolved. Will EPA continue utilizing the Administrator's Emphasis List?

**RESPONSE:** If confirmed, I commit to working with the team in EPA's Office of Land and Emergency Management, EPA Regions, and stakeholders to ensure a continued focus on the timely cleanup of contaminated sites. We will evaluate all of our available tools, including the Administrator's Emphasis List, to ensure that site cleanups occur as quickly as possible, and issues are elevated, as needed.

23. One way the previous Administration prioritized the Superfund Program was through the establishment of the Superfund Task Force. To keep EPA accountable, the Task Force's final report identified a number of performance measures to help the Agency and the public track and report on progress on the overall implementation of the Superfund Program. Which Superfund performance measure(s) do you think are the best indicators of a successful Superfund Program and why?

**RESPONSE:** Starting in FY 2022, the Superfund Remedial program's long-term performance goal will be to bring human exposures under control at an additional 60 Superfund sites.

24. Does OLEM plan to make any changes to the Agency's Superfund Program? If so, please detail these changes and the timeline you anticipate for these changes being made.

**RESPONSE:** The Agency continually evaluates the effectiveness of the Superfund program and makes changes as necessary. Presently, the Superfund program is

**collaborating with other parts of the EPA to mitigate and reduce per- and polyfluoroalkyl substances (PFAS) pollution, to reduce environmental lead exposure, and to increase community engagement.**

25. With the challenges posed by emerging contaminants, do you intend to make any changes to the Agency's approach to monitoring or potentially reopening legacy sites? If so, please detail these changes and the timeline you anticipate for these changes being made.

**RESPONSE: The existing CERCLA Five-Year Review process provides EPA the opportunity to systematically evaluate existing remedial actions, including at legacy sites, if hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure. This review process considers changes in site conditions, including the presence of emerging contaminants, and gives EPA the authority to assess remedy protectiveness and consider further investigation or actions under CERCLA.**

26. Adaptive Management can be a particularly useful tool at large or complex Superfund sites to facilitate expedited cleanups, as it requires developing a site strategy that acknowledges uncertainties but establishes measurable decision points to evaluate learned information and adapt if needed. EPA indicated it would finalize Adaptive Management Guidance by December 2019, but the Agency has yet to publish any finalized document. When will the document be finalized?

**RESPONSE: EPA is in the process of developing additional guidance on this topic. If confirmed, I will work with EPA staff to facilitate the development of the guidance by the end of FY 2022.**

27. Under the Superfund Task Force, EPA is implementing adaptive management at six pilot sites. Please provide an update on the use of adaptive management at these sites.

**Response: EPA developed an adaptive management plan for five of the six sites identified under the adaptive management pilot program. These plans will be implemented and updated as site cleanup progresses. If confirmed, I will provide your office with the insights gleaned from the pilot programs and ensure that EPA uses this information to inform the adaptive management guidance.**

28. You have participated in two public listening sessions on the Trump Administration's Risk Management Program Reconsideration Rule. During those sessions, you discussed the importance of protecting environmental justice communities. In what ways could the Risk Management Program better protect environmental justice communities?

**RESPONSE: Protecting communities with environmental justice concerns is a top priority for the Agency. During the Agency's public listening sessions on June 16 and July 8, 2021, environmental justice was a main topic of concern, with commenters citing research that communities are disproportionately burdened by cumulative risks owing to proximity to multiple RMP facilities and other environmental stressors. A few comments suggested that EPA take steps to reduce**

**risks and improve communication. As the rulemaking process for the RMP Reconsideration rule proceeds, the Agency expects to consider options on how best to assist communities that are disproportionately burdened by cumulative risks from multiple RMP facilities and other environmental stressors.**

29. The Trump Administration's Risk Management Program rule maintained protections for sensitive information, while ensuring first responders have access to all necessary safety information. This change addressed security risks raised by the Department of Homeland Security and Department of Justice on potential access to sensitive chemical facility hazard information. Do you plan to change those protections for sensitive information? If so, why?

**RESPONSE: EPA held virtual public listening sessions on June 16 and July 8, 2021. The Agency is now considering the public's feedback and determining next steps. In addition, and as part of the rulemaking process, EPA expects to evaluate options for how to make RMP information available in an efficient and expedient manner to local emergency planners, first responders, and neighboring communities, while still abiding by the requirements of the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (CSISSFRRRA). If confirmed, I will work with EPA staff to facilitate collaboration with Department of Homeland Security and the Department of Justice on any changes to how RMP information is made available to ensure that security concerns are adequately balanced with the need to share information and foster strong community emergency plans.**

30. Under White House Chief of Staff Klain's Regulatory Freeze Memo, EPA's January 14, 2021 Advanced Notice of Proposed Rulemaking requesting comments on addressing PFOA and PFOS in the environment was never published.<sup>9</sup> Does EPA have all the information needed to adequately consider listing particular PFAS-related wastes or chemicals as hazardous waste under RCRA?

**RESPONSE: EPA is looking at various types of scientific information related to addressing PFAS under CERCLA and RCRA authorities. This information includes the most recent chemical and physical characteristics, toxicity and kinetics, environmental prevalence, and manufacturing and use data.**

31. Does EPA plan on regulating any PFAS as a RCRA hazardous waste?

**RESPONSE: EPA is evaluating petitions received that ask the Agency to regulate PFAS under RCRA. EPA is looking at both the information provided in the petitions and other data to determine an appropriate response and course of action.**

32. Does EPA plan on regulating any PFAS as a CERCLA hazardous substance? If so, which PFAS compounds?

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<sup>9</sup> [https://www.epa.gov/sites/default/files/2021-01/documents/frl-10019-13-olem\\_addressing\\_pfoa\\_pfes\\_anprm\\_20210113\\_admin-508.pdf](https://www.epa.gov/sites/default/files/2021-01/documents/frl-10019-13-olem_addressing_pfoa_pfes_anprm_20210113_admin-508.pdf)



**RESPONSE: EPA is looking at various types of scientific information related to addressing PFAS under CERCLA. This information includes the most recent chemical and physical characteristics, toxicity and kinetics, environmental prevalence, and manufacturing and use data.**

33. During your nomination hearing, you stated that EPA was continuing to work on a rule for designating certain PFAS chemicals as hazardous substances, which has been the response from EPA officials for nearly two years. Has this Administration considered or received any new information as part of this continuation of the work on the potential rule that was not available to the previous Administration?

**RESPONSE: I cannot speak to information the previous Administration may or may not have considered. Currently, EPA is looking at various types of scientific information related to addressing PFAS under CERCLA. This information includes the most recent chemical and physical characteristics, toxicity and kinetics, environmental prevalence, and manufacturing and use data.**

34. Has EPA evaluated the potential impacts of a CERCLA hazardous substance designation for PFOA and PFOS on municipalities, farmers, and small businesses? If so, what were the findings of that evaluation?

**RESPONSE: EPA would analyze potential impacts, including these and others, as part of the development of a proposed rulemaking.**

35. Do you agree that it is important to recycle or reuse material in lieu of disposal when possible?

**RESPONSE: [EPA data](#) show that recycling conserves energy and natural resources. Moreover, increasing recycling serves as a mechanism for reducing environmental and social impacts of materials use, keeps valuable resources in productive use rather than in landfills, and creates jobs. It is important to ensure that recyclables are managed in an environmentally sound manner when sent for further processing so that communities with environmental justice concerns are not adversely affected by recycling practices.**

36. EPA recently completed review of three coal combustion residuals rules in response to President Biden's Executive Order 13990. EPA decided to leave the Trump Administration rules unchanged. The Southern Environmental Law Center said "it's a mistake to leave those rules in place." Do you agree with the Southern Environmental Law Center that "it's a mistake to leave" the Trump Administration's coal ash rules in place or do you think the Trump Administration's coal ash rules are sufficiently protective of human health and the environment?

**RESPONSE: EPA completed review of the three coal combustion residuals rules in response to Executive Order 13990. EPA determined that the most environmentally protective course is to implement the rules. EPA will be addressing the remaining**

issues remanded back to the Agency regarding the July 2018 rule through the rulemaking process.

37. Coal ash has several beneficial uses, including being used for the manufacture of concrete and wallboard. According to the Agency, “EPA supports the responsible use of coal ash in this manner.”<sup>10</sup> In December 2020, EPA released a notice seeking information and data related to the beneficial use of coal ash. That comment period ended February 22, 2021. What is EPA’s timeline for reviewing all comments and finalizing a rule?

**RESPONSE: EPA solicited and received comments on a Notice of Data Availability regarding the beneficial use of coal ash. Following a 60-day comment period extension, EPA continues to evaluate the information submitted to the Agency and will use that information to determine an appropriate path forward.**

38. In your EPW Nominations Questionnaire document and other documents that were provided to the Committee, you stated that upon confirmation you planned on continuing your current leave of absence from Howard University. In response to recent questions about political officials and leave of absences, EPA officials have stated multiple times:

*“Consistent with White House policy over several administrations, political appointees (with the exception of Senate-confirmed appointees) are permitted to take a leave of absence from an academic institution during their government tenure, provided that the required recusals are in place to avoid a potential or actual conflict of interest.”<sup>11</sup>*

Given this White House policy, do you still plan on taking a leave of absence if confirmed?

**RESPONSE: I take seriously my ethical obligations and, if confirmed, I expect to work with EPA’s Designated Agency Ethics Official EPA’s Ethics Office for consultation and advice about meeting my ethical obligations.**

**In April 2021, I began an unpaid leave of absence from my position as Professor of Law at the Howard University School of Law. If confirmed, I will remain on an unpaid leave of absence from my position as a Professor at Howard University School of Law. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the Howard University School of Law, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for either the exemption for employees on leave from**

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<sup>10</sup> <https://www.epa.gov/coalash/frequent-questions-about-beneficial-use-coal-ash#:~:text=All%20Close%20All-,Beneficial%20Use%20under%20the%20Final%20CCR%20Disposal%20Rule,coal%20ash%20in%20this%20manner.>

<sup>11</sup> Kevin Bogardus, *Republicans question EPA appointee's 'strong ties to China'*, POLITICO (Sept. 7, 2021), <https://subscriber.politicopro.com/article/eenews/2021/09/07/republicans-question-epa-appointees-strong-ties-to-china-280303>; Fred Lucas, *EPA official's ties to China-linked university spark questions*, FOX NEWS (Sept. 21, 2021), <https://www.foxnews.com/politics/epa-official-ties-china-linked-university> (emphasis added).

**institutions of higher learning allowing participation in certain particular matters of general applicability at 5 C.F.R. § 2640.203(b), or another regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).**

**My decision to continue to take a leave of absence, upon confirmation, is based on the advice I have received from EPA's Office of General Counsel/Ethics Office, and my understanding that taking an unpaid leave of absence from a domestic academic institution is consistent with existing university policies and long-standing White House practice spanning several administrations.**

**Senator Inhofe:**

1. Dr. Waterhouse, as you may know, Tar Creek is a Superfund site located in Ottawa County, Oklahoma. The site was originally used for producing lead and zinc bullets during both World Wars and what is left is mining waste known as "chat." In 2003, as chairman of the EPW Committee, I brought federal, state, and Tribal partners together for the first time which resulted in the Oklahoma Plan for Tar Creek. In light of that effort, the EPA has committed millions of dollars in grants to DEQ and the Quapaw's to continue cleanup efforts. DEQ has experienced delays in EPA's dispersing of awards which has caused DEQ to stop or delay work at critical points due to EPA's delays. Dr. Waterhouse, how would you expedite EPA's grant approval process for state partners, including DEQ?
  - a. What actions have you taken to prioritize the Superfund program since you joined the Agency?

**RESPONSE: Environmental and human health protection is a shared responsibility of Tribes, states, and the federal government. More than 50 years after the creation of EPA, states and local governments serve as primary implementers of many of the nation's environmental laws. Due to these unique relationships, the early, meaningful, and substantial involvement of EPA's co-regulator partners is critical to the development, implementation, and enforcement of the nation's environmental programs. If confirmed, I will continue my focus on getting cleanups done more quickly and efficiently to ensure that communities aren't suffering environmental injustices from being overburdened with pollution, including by working to issue grants quickly and efficiently while maintaining integrity. I will support EPA Region 6's long and productive partnership with Oklahoma Department of Environmental Quality (ODEQ) to address Superfund cleanups in the State. EPA Region 6 works with ODEQ to annually review grant requests, the grant process, and the timing of awards. The State has autonomy in managing its projects and their budgets. The Tar Creek Site serves as a model for state and tribal led actions. EPA stands ready to assist ODEQ to address any funding issues and foster a more effective process for facilitating disbursing of awards.**